Nuclear Decommissioning Trusts

California Public Utilities Code Section 8321 et seq. incorporates the Nuclear Facility Decommissioning Act of 1985 whereby investor owned utilities with nuclear power plants are authorized to collect revenues in rates to cover the costs of their decontamination and decommissioning.

The Commission authorized the use of externally managed trusts as the vehicles for accruing decommissioning funds for California's nuclear power plants.
In **OII 86** the Commission conducted an investigation into methods of financing the cost of decommissioning California's nuclear power plants. In **D.87-05-062**, the Commission adopted externally managed trusts as the vehicles for accruing decommissioning funds. Two types of funds were established.

1. The *Qualified Trust* funds are contributions that qualify for an income tax deduction under Section 468A of IRS Code.
2. The *Non-qualified Trust* funds are those contributions that do not qualify for an income tax deduction.

Each utility has a Committee made up of 5 members who are responsible for directing and managing their decommissioning trusts.
Two of the Committee members are utility affiliated. The **three** that are not affiliated with the utility are the Commission-approved members that serve a term of five years. The Committee appoints trustees and investment managers. On November 25, 1987, Resolutions E-3060, E-3048, and E-3057 approved, respectively, SDG&E's, PG&E's, and Edison's Master Trust Agreements.

The California utilities currently have approximately over $5 billion accrued in their decommissioning trusts.

Estimated Market Value of Nuclear Decommissioning Trusts
December 31, 2004 ($ Millions)

	Qualified Trust	Non-qualified Trust	Total
SDG&E*	**$537.4**	**$75.0**	**$612.4**
PG&E**	**$1,649.0**	**$113.0**	**$1,762.0**
SCE***	**$2,589.0**	**$168.6**	**$2,757.6**
Total	**$4,775.4**	**$356.6**	**$5,132.0**

*For SONGS plants.
**For Humboldt and Diablo Canyon plants.
***For SONGS and Palo Verde plants.

The utilities employ a stable of investment managers and advisors for their decommissioning trusts

Investment Managers

SDG&E:

- NISA Investment Advisors, L.L.C [Fixed income]
- State Street Global Advisors [US & Foreign equity]
- TCW Asset Management [Fixed income for qualified trust]
- Payden & Rygel [Fixed income for non-qualified trust]
- UBS Asset Management [Foreign equity]

PG&E:

- Black Rock Financial Management [Qualified/non-qualified trust fixed income].
- NISA Investment Advisors [Qualified trust fixed income]
- State Street Global Advisors [Qualified/non-qualified trust US equities]
- PanAgora Asset Management [Non-US equities]
- Black Rock Financial Management [Non-qual. fixed income]

SCE:

- SCW Fixed income management [Qualified trust fixed income]
- Black Rock Financial Management [Qualified trust fixed income]
- Stanford C. Bernstein [Qualified trust fixed income]
- PanAgora Asset Management [Qualified trust international equity assets]
- Alliance Capital [Qualified trust US equity assets]
- RCM [Non-qualified trust US equity assets]
- SSgA [Qualified/non-qualified US equity assets]
- PIMCO [Qualified/non-qualified fixed income assets]

Trustee

Mellon Bank N.A. acts as the trustee for SDG&E, PG&E and SCE Decommissioning Trusts by providing custody, record keeping, accounting, taxation, and reporting services on behalf of the trusts.

The Nuclear Regulatory Commission (NRC) has some basic regulations that must be followed regarding decommissioning. These are:

1. Licensees are required to have sufficient funds to decommission the plant so that it [NRC] can terminate the license [10 CFR 50.75]. The utilities with nuclear plants file a report every two years with the NRC showing estimated decommissioning costs according to the NRC methodology, and how much money has been set aside for that purpose. The NRC definition of decommissioning is related only to the ‘nuclear’ portion of the plant. **In California, decommissioning also includes restoring the site to its original condition, which includes additional activities and which requires accumulation of more funds.**

2. After permanent plant shutdown, certain activities may not be performed that would prevent completion of decommissioning [10 CFR 50.82(6)].

The Commission established investment guidelines for the decommissioning trusts in 1995.
Each of the accounts is managed according to the permitted investments specified by the Commission in **D.95-07-055** and the investment management guidelines established by the Committee. Briefly, D.95-07-055 adopts certain kinds of methods and investments that include, among others, the following:

- Not more than 50% of the fair market value of the qualified trusts may be invested in equity securities
- Not more than 20% of the fair market value of the trusts may be invested in international equity securities
- Up to 100% of the fair market value of the trusts may be invested in investment grade fixed-income securities [rated BBB- or higher by Standard and Poor’s or an equivalent rating by other rating agencies], although the Commission stresses that no derivative security of any kind is permitted
- While derivatives are prohibited, the trusts may hedge foreign exchange risks on a short-term basis between the buy or sell date of a foreign security and the settlement date
- Not less than 50% of the equity portion of the qualified and non-qualified trusts may be invested passively

If the Commission is interested in exploring the use of the decommissioning trusts in advancing its policies concerning climate change, it could order an OIR to begin the process of exploring new or revised investment guidelines for the utilities’ trust committees to follow.

Just as the California Public Employees Retirement System (CALPERs) Board has started to explore environmental investment opportunities to address the state’s concern about global warming, the Commission could begin an OIR on investment guidelines for the nuclear decommissioning trusts. For example, the Commission could examine concepts such as investing in stocks of environmentally-friendly corporations, target investment in ‘clean’ environmental technologies and/or carbon sequestration (e.g., timberland investments), and demand environmental accountability and disclosure, while at the same time maintaining the trusts' original objective to accrue funds for the eventual decommissioning of the state's nuclear power plants.